

EXHIBIT “A”

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FILED
 LOS ANGELES SUPERIOR COURT

OCT 19 2015

CHERRIE R. CARTER
 EXECUTIVE OFFICER/CLERK
 BY: *[Signature]*
 DEPUTY

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 11 FOR THE COUNTY OF LOS ANGELES-NORTH CENTRAL DISTRICT

12 IVIS MORAN

13 Plaintiff/Petitioner,

14 vs.

15 CITY OF PASADENA, a municipal
 16 entity; MICHAEL BECK, in his official as
 17 City Manager and his individual
 18 capacity; PHILLIP SANCHEZ, in his
 19 official capacity as Chief of Police and in
 20 his individual capacity; and DOES 1
 21 through 20, inclusive

22 Defendants/Respondents.

Case No. EC064281
 Assigned for all purposes to
 Judge Donna Fields Goldstein

FIRST AMENDED CIVIL COMPLAINT

1. PETITION FOR WRIT OF
MANDATE PURSUANT TO
C.C.P. §1094.5
2. RELIEF FOR VIOLATION OF
POBRA, GOVERNMENT CODE
§3309.5
3. VIOLATION OF CIVIL RIGHTS
42 U.S.C. §1983

Request for Jury Trial

23 COMES NOW, PLAINTIFF/PETITIONER IVIS MORAN, and alleges as follows:

VENUE AND JURISDICTION

24 1. Venue is proper in the Superior Court of the State of California, for the
 25 County of Los Angeles in that the underlying acts, omissions, injuries and related facts
 26 and circumstances giving rise to the present action occurred in the City of Pasadena,
 27 County of Los Angeles, California. This Court has jurisdiction over the present matter
 28 because, as delineated within this complaint, the nature of the claims and amount in
 controversy meet the requirements of jurisdiction in the Superior Court and the Superior
 Court is given initial jurisdiction over at least some of the claims raised herein.

1 2. Plaintiff requests a jury trial on all non-mandamus relief.

2 3. Under Government Code §3309.5, Plaintiff need not exhausted all his/its
3 administrative remedies, and therefore Plaintiff asserts that he has exhausted all
4 administrative remedies required of him.

5 **PARTIES**

6 4. Plaintiff/Petitioner Ivis Moran, at all relevant time mentioned herein, unless
7 otherwise stated, was employed as a full time sworn member of the City of Pasadena
8 Police, holding the rank of police officer. As such, Moran was had a vested property
9 right to continued employment that could not be taken away without due process of law.
10 Moran also was entitled to all the rights and protections under the Public Safety Officers
11 Procedural Bill of Rights Act. At all time relevant herein, Moran was a member of the
12 Pasadena Police Officers Association. Moran was and is a resident of the State of
13 California.

14 5. Defendant/Respondent, City of Pasadena (hereinafter "City") is and was a
15 municipality duly organized and existing under the laws of the State of California. The
16 Pasadena Police Department (hereinafter "Police Department") is an official subdivision
17 of Defendant City, and all officers employed by said department are employees of
18 Defendant City. The City, via state law, resolution, policy and/or past practice, has
19 afforded sworn members of the Police Department with the rights as afforded to sworn
20 peace officers under Government Code §3300, et seq.

21 6. Defendant, Michael Beck is the City Manager for the City of Pasadena,
22 and is charged with the overall supervision and management of personnel, including
23 personnel investigations and discipline of employees of the Pasadena Police
24 Department. Plaintiff has information and belief that Beck participated, supervised
25 and/or was actively involved in the incident giving rise to this Complaint.

26 7. Defendant, Phillip Sanchez is the Chief of Police for the City of
27 Pasadena, Pasadena Police Department, and is charged with the supervision,
28 management of personnel, including personnel investigations and discipline of

1 employees of the Pasadena Police Department. Plaintiff has information and belief that
2 Sanchez participated, supervised, directed and/or was actively involved in the incident
3 giving rise to this Complaint.

4 8. All of the acts complained of herein by Plaintiff against Defendants were
5 done and performed by said Defendants/Respondents by and through their authorized
6 agents, servants and/or employees, and each of them, all of whom at all relevant times
7 herein were acting within the course, purpose and scope of said agency, service and/or
8 employment capacity and/or in their individual capacity but purportedly within the
9 course, purpose and scope of said agency, service and/or employment capacity.
10 Moreover, Defendants/Respondents and their agents ratified all of the acts complained
11 of herein.

12 9. At all times herein mentioned, DOES 1-20, inclusive, were the agents,
13 servants and employees of Defendant City of Pasadena, Pasadena Police Department,
14 City Manager Beck and/or Chief of Police Sanchez, and in doing the things hereinafter
15 alleged, were acting within the scope of their authority as such agents, servants and
16 employees with the permission and consent of the other Defendants. Plaintiff will
17 amend the Complaint to allege true names and capacities of DOES 1-20, inclusive
18 when ascertained.

19 **FACTUAL ALLEGATIONS RELATED TO ALL CLAIMS**

20 10. On or about January 23, 2012, and after months of an on-and-off social
21 relationship with a female co-worker, the Pasadena Police Department received a false
22 complaint that Plaintiff had assaulted the female co-worker. The female co-worker,
23 who, in her brief career, had dated several Pasadena Police Officers and was engage
24 into another. Leading up to the consensual encounter between Plaintiff and the female
25 officer, the female officer repeated met with Plaintiff to engage in acts of intimacy and
26 then spent approximately eight hours texting back and forth with Plaintiff. These facts,
27 however, were omitted by the female officer when she was interviewed about her
28 complaint.

1 11. After receiving the complaint and interviewing the female officer, whose
2 father was a Lieutenant with the Pasadena Police Department, both the Internal Affairs
3 investigator and the criminal investigators interviewed the female officer. It would later
4 be determined that the female officer deleted relevant text messages, and provided
5 false information and/or inconsistent statements to the investigators, but she never
6 faced any disciplinary actions for her conduct.

7 12. It is believed, and thereon alleged, that Chief Sanchez and his
8 subordinates came to the conclusion, without any further investigation, that Plaintiff was
9 guilty of a criminal act. Defendants initiated both an administrative investigation
10 (commonly referred to as an Internal Affairs Investigation) and a concurrent criminal
11 investigation of Plaintiff. The administrative investigator and the criminal investigator
12 began working together and were sharing information; in essence, they joined forces to
13 conduct a joint investigation.

14 13. A Lieutenant at the Police Department requested that Plaintiff appear to
15 be interviewed about an incident between Plaintiff and the female officer. The two
16 Investigators assigned to conduct a criminal investigation intentionally did not inform
17 Plaintiff of the nature of their investigation and, in fact, falsely advise him that they did
18 not know where the investigation was going, but it could be administrative in nature.
19 Plaintiff specifically asked if the interview was part of a criminal investigation, and the
20 Investigator purposely and intentionally misstated his knowledge and said "I don't
21 know." Because he was requested to appear by a Lieutenant, and based on the false
22 statements of the investigator, Plaintiff cooperated with the interview without legal
23 representation.

24 14. On or about January 25, 2012, Plaintiff was notified that he was being
25 placed on administrative leave until the conclusion of the Internal Affairs Investigation.
26 The Notice of Administrative leave indicated potential policies that may have been
27 violated, but did not state the nature of the investigation or what alleged misconduct
28 gave rise to the potential policy violations. No additional notices regarding the nature of

1 the investigation were provided to Plaintiff prior to his administrative interrogation.

2 15. At the time of Plaintiff's first interview by members of the Pasadena Police
3 Department, not only was he not informed of the nature of the investigation, but he was
4 intentionally deceived about the nature of the investigation. Moreover, Plaintiff was not
5 informed that he was under criminal investigation and/or advised of his constitutional
6 rights. Nevertheless, Plaintiff provided the investigator with a truthful statement and
7 evidence that the relationship and all contact with the female coworker was consensual.

8 16. During the criminal investigation and/or concurrent administrative
9 investigation, the investigators did not recover, nor attempt to recover what is believed
10 to have been exculpatory video evidence from both private and public video recordings.
11 Additionally, the investigators allowed the female officer to personally redacted from
12 obtained evidence information that may have provided additional exculpatory evidence
13 for Plaintiff. It is also believed that the Defendants erased or destroyed recordings of
14 interviews with the female officer and/or other witnesses.

15 17. After the criminal investigation was completed, it was sent to the City
16 Prosecutor for review. The City Prosecutor refused to file any criminal charges as the
17 behavior of the female officer leading up to the incident in question indicated a
18 willingness to engage in a romantic liaison with Plaintiff.

19 18. Plaintiff was removed from administrative leave and placed back on active
20 duty.

21 19. The criminal investigation was then provided to the Internal Affairs
22 investigator. The investigator reviewed the entire criminal investigation and all
23 statements gathered and then planned for her interview of Plaintiff.

24 20. Prior to his first Internal Affairs Interview, Plaintiff was not informed of the
25 full nature and scope of the interview. While Defendants had provided Plaintiff with a
26 list of policy sections that he may have violated back in January 2012, they did not at
27 that time nor any time thereafter and prior to his interrogation indicate what behavior
28 was alleged to have occurred that would be violative of the identified policies.

1 Moreover, Defendants are believed to have intentionally omitted from the information
2 given to Plaintiff that he was under investigation for making false statements during the
3 criminal investigation. These allegations and areas of questioning were known to the
4 Internal Affairs investigator prior to Plaintiff's first interview.

5 21. After Plaintiff's internal affairs interrogation began, Plaintiff was informed,
6 for the first time in either investigative interview, of his constitutional rights. Once
7 advised of his rights, Plaintiff invoked his all of his constitutional rights.

8 22. The Internal Affairs Investigator questioned Plaintiff about his prior social
9 relationship with the female officers, his private messages and discussion with the
10 female officer going back three years, and about statements he had made to the
11 Pasadena officer that conducted the criminal investigation. Ultimately, during this first
12 administrative interview, the investigator, without providing notice that Plaintiff was
13 under investigation for making false statements, asked questions about statements that
14 the investigator thought were untrue based on the content of the criminal investigation.

15 23. On or about November 13, 2012, Plaintiff was interviewed a third time by
16 Pasadena Police Department investigators; and the second time by the Internal Affairs
17 Investigator. This time, after the interrogation began and the recorder was activated,
18 Plaintiff was told that he was under investigation for making false statement during the
19 first administrative interview.

20 24. Prior to the third interrogation, which was also the second or subsequent
21 Internal Affairs interrogation, Plaintiff was provided with copies of his prior recorded
22 interviews, but was not provided with the complaint or any of the reports required under
23 Government Code §3303(g).

24 25. During the second Internal Affairs interview, the investigator re-asked the
25 same questions about what Plaintiff has said to the criminal investigators.

26 26. As Defendants believed that they had obtained the necessary information
27 to terminate Plaintiff's employment, he was again placed on administrative leave on or
28 about December 13, 2012. Plaintiff was directed that he was not allowed to discuss the

1 administrative investigation with anyone and that he could not contact the witnesses
2 interviewed in the case. This clearly inhibited Plaintiff from providing a defense to any
3 administrative allegation of misconduct.

4 27. On an unknown date and time, Defendant Sanchez gathered his
5 command staff and Internal Affairs Investigators to review the Internal Affairs
6 Investigation. Chief Sanchez had his attorney, Hugh Halford, from the Pasadena City
7 Attorney's office present. Based on knowingly false and misleading statements from
8 the Internal Affairs investigators, Defendant Sanchez was able to make a final decision
9 that he was going to terminate Plaintiff's employment.

10 28. On or about January 8, 2013, Plaintiff was served with a Notice of
11 Proposed Discipline. The basis for the disciplinary action being proposed was the
12 allegation of misconduct with the female officer, and the purportedly false statement to
13 the criminal investigators (and then repeating the answers to the administrative
14 investigator) which resulted from Plaintiff's interview where Defendants did not provide
15 notice of the nature of the investigation prior to the interview (as referenced above). It
16 is believed, and thereon alleged, that Plaintiff was not provided with all the documents
17 that the proposed discipline was based on. Moreover, the "no contact" order was not
18 withdrawn or revoked, thereby inhibiting Plaintiff's ability to present a defense.

19 29. On or about March 4, 2013, Plaintiff attended a faux *Skelly* hearing that
20 was presided over by Chief Sanchez and his attorney, Hugh Halford, from the City
21 Attorney's office. By the time of the *Skelly* hearing, Defendant Sanchez had already
22 made his mind up and summarily dismissed Plaintiff's presentation. To Sanchez, any
23 facts in the way of the goal to terminate Plaintiff were ignored, and, like the
24 investigation, the results of the *Skelly* hearing were preordained. On or about March
25 19, 2013, Sanchez upheld Plaintiff's termination, but did not provide Plaintiff with notice
26 of all the factual grounds for doing so.

27 30. It is believed that Defendant Sanchez used other charges, including, but
28 not limited to Plaintiff with being a "Brady Officer" in violation of the law, and also for

1 undisclosed allegations of untruthfulness. Plaintiff was never put on notice of these
2 allegations nor was he afforded the opportunity to address them prior to discipline being
3 implemented.

4 31. On or about April 2, 2013, Plaintiff timely appealed the disciplinary action.
5 At each stage of the grievance proceeding, Defendant Sanchez, or his designee, and a
6 representative from the City Attorney's office reined over the proceedings.

7 32. In order to proceed with a neutral administrative appeal, the employee (or
8 his representative) was required to pay a deposit to the City of Pasadena.

9 33. Finally, on or about March 14, 2014, Plaintiff, for the first time, was
10 afforded the opportunity for an evidentiary hearing before a neutral Arbitrator. The
11 Defendants were represented initially by Hugh Halford of the Pasadena City Attorney's
12 office, and later, after Halford retired, by another representative of the City Attorney's
13 office. Due to issues with the City's witnesses, including the female officer that initiated
14 the complaint against Plaintiff, the hearing was not concluded until July 30, 2014.
15 Thereafter the parties submitted closing brief; the City's brief was finally served on
16 November 17, 2014.

17 34. On or about March 12, 2015, the Arbitrator issued his "Advisory Award."
18 The Arbitrator reviewed the evidence, considered the live testimony from the witnesses,
19 and was able, based on both on the content of and manner in which the testimony was
20 provided, to make credibility determinations. The arbitrator found that the City did not
21 meet its burden of proof that Plaintiff engaged in any of the charged misconduct with
22 the female officer. The Arbitrator, in reviewing all the evidence, simply found Plaintiff to
23 be the more credible witness based on the corroborating evidence.

24 35. The Arbitrator also concluded that the City did not meet its burden of
25 proving that Moran lie to the criminal or the administrative investigators during his
26 interrogations.

27 36. The Arbitrator also concluded that the Internal Affairs Investigator violated
28 Plaintiff's rights under Government Code §3303 at the time of the March 16, 2012,

1 interrogation, and indicated that the criminal investigator's interview on February 25,
2 2012, also violated the law. Moreover, the Arbitrator found that the Notice of Intent to
3 Discipline and the Notice of Discipline were inadequate; in essence, finding a due
4 process violation.

5 37. The Arbitrator's advisory award recommends that the termination be set
6 aside in its entirety, on its merits, given the City's failure to prove its case by a
7 preponderance of the evidence, and that Plaintiff be reinstated with full back pay,
8 seniority and benefits.

9 38. The applicable Memorandum of Understanding requires the Employee
10 Relations Officer, here Defendant Beck, within twenty (20) calendar days following
11 receipt of the advisory opinion, to advise the Union or the employee whether or not
12 he/she intended to take any further action regarding the issue or issues referred to in
13 the arbitrator's advisory opinion. No such notification was within 20 days following
14 receipt of the advisory opinion issued in this case.

15 39. Defendant Beck, with legal advice from the City Attorney's office, then
16 ignored the Arbitrator's Award and upheld the termination. Beck, however, did not
17 follow the procedures established in the Memorandum of Understanding, and waived
18 the right to take any action on the case other than to accept the Arbitrator's Advisory
19 Award. Beck issued his decision on June 24, 2015, and served on counsel for the
20 parties, but not on Plaintiff (therefore, no 90 day triggering under C.C.P. §1094.6 was
21 effectuated).

22 40. On or about July 5, 2015, Plaintiff, via counsel sent by electronic mail and
23 First Class Mail, a request pursuant to C.C.P. §1094.6©, for Defendant City to provide
24 the complete record of the administrative appeal proceedings. As of the date of the
25 filing of this Complaint, no such records have been provided.

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1 **FIRST CAUSE OF ACTION**

2 **Writ of Mandate Pursuant to C.C.P. §1094.5**

3 **Moran vs City and City Manager**

4 41. Plaintiff realleges each and every allegation contained in paragraphs 1
5 through 40 as though set forth fully herein

6 42. Code of Civil Procedure §1094.5 provides, in pertinent part, as follows:

7 “(a) Where the writ is issued for the purpose of inquiring into the validity of
8 any final administrative order or decision made as the result of a proceeding in which by
9 law a hearing is required to be given, evidence is required to be taken, and discretion in
10 the determination of facts is vested in the inferior tribunal, corporation, board, or officer,
11 the case shall be heard by the court sitting without a jury. All or part of the record of the
12 proceedings before the inferior tribunal, corporation, board, or officer may be filed with
13 the petition, may be filed with respondent's points and authorities, or may be ordered to
14 be filed by the court ...

15 (b) The inquiry in such a case shall extend to the questions whether the
16 respondent has proceeded without, or in excess of jurisdiction; whether there was a fair
17 trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is
18 established if the respondent has not proceeded in the manner required by law, the
19 order or decision is not supported by the findings, or the findings are not supported by
20 the evidence;

21 (c) Where it is claimed that the findings are not supported by the
22 evidence, in cases in which the court is authorized by law to exercise its independent
23 judgment on the evidence, abuse of discretion is established if the court determines
24 that the findings are not supported by the weight of the evidence. In all other cases,
25 abuse of discretion is established if the court determines that the findings are not
26 supported by substantial evidence in the light of the whole record.

27 43. In the matter at hand, the City Manager's "Decision Letter," issued or
28 about, on or about June 24, 2015, finding that the disciplinary action against Plaintiff

1 was to be upheld (City has good cause) is not supported by the weight of the evidence,
2 nor is the decision supported by substantial evidence. Furthermore, the decision is not
3 supported by the findings. Plaintiff further contends that findings of the City Manager
4 are not supported by the evidence.

5 44. In the matter at hand, the City Manager's "Decision Letter," issued or
6 about, on or about June 24, 2015, finding that the City did not violate Plaintiff's right to
7 due process is not supported by the weight of the evidence, nor is the decision
8 supported by substantial evidence. Furthermore, the decision is not supported by the
9 findings. Plaintiff further contends that findings of the City Manager are not supported
10 by the evidence.

11 45. In the matter at hand, the City Manager's "Decision Letter," issued or
12 about, on or about June 24, 2015, finding that the City did not violated Government
13 Code §3300, et seq., is not supported by the weight of the evidence, nor is the decision
14 supported by substantial evidence. Furthermore, the decision is not supported by the
15 findings. Plaintiff further contends that findings of the City Manager are not supported
16 by the evidence.

17 46. It is further alleged that the Defendant City and Defendant Beck
18 proceeded without or in excess of its jurisdiction, there was prejudicial abuse of
19 discretions, and Plaintiff has been denied due process of law and a fair hearing.

20 47. In fact, the evidence showed that Plaintiff's actions did not constitute
21 misconduct and were not in violation of any policy or law.

22 48. The City Manager's written decisions fails to include factual findings on all
23 necessary elements of the alleged offenses, and fails to include the analytical
24 explanation of the facts and conclusions required by law.

25 49. Plaintiff seeks a Writ of Mandate overturning, revoking, and/or finding null
26 and void the administrative decision. Plaintiff further seeks to mandamus relief to
27 enforce the Arbitrator's award, including, the finding that the City did not meet its
28 burden of proof on any allegation of misconduct, and vacating Plaintiff's termination.

1 50. Plaintiff seeks an award of all back wages, seniority benefits, and other
 2 fringe benefits, with interest, from the date of his termination to the date he is
 3 reinstated.

4 51. Plaintiff requests this court to award damages pursuant to C.C.P. §1090
 5 and 1095.

6 52. The actions of defendants, and each of them, were arbitrary and
 7 capricious and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to
 8 Government Code §800.

9 53. The success of Plaintiffs in this action will result in the enforcement of an
 10 important right affecting the public interest in that a significant benefit will be conferred
 11 on a large class of persons, that is, public employees, and the necessity and financial
 12 burden of private enforcement of said benefit are such as to make appropriate the
 13 award of attorney fees pursuant to California Code of Civil Procedure §1021.5.

14
 15 **SECOND CAUSE OF ACTION**
 16 **AGAINST CITY, SANCHEZ AND BECK**
 17 **VIOLATION OF POBRA**

18 54. Plaintiff realleges each and every allegation contained in paragraphs 1
 19 through 40 as though set forth fully herein

20 55. California Government Code §3303 provides that certain procedures and
 21 notices are mandated prior to any officer being interrogated by his or her commanding
 22 officer, or any other member of the employing public safety department, that could lead
 23 to punitive action. These procedures include notifying the officer of the nature of the
 24 investigation, who will be present during the interrogation, the right to representation
 25 and, if criminal allegations are possible, the officer must be informed of his
 26 constitutional rights. (*City of Los Angeles v. Superior Court* (1997) 57 Cal.App.4th 1506;
 27 *Paterson v. City of Los Angeles* (2009) 174 Cal.App.4th 1393).

28 56. In this case, on February 25, 2012, March 16, 2012, and November 13,

1 2012, Plaintiff was interviewed about matters that could lead to punitive action against
2 him. He should have been afforded all his pre-interrogation rights, pursuant to
3 Government Code §3303, but was not.

4 57. Plaintiff's interviews on March 16, 2012, and/or November 13, 2012,
5 constitutes "further interrogation at a subsequent time." Government Code §3303(g)
6 provides: "The complete interrogation of a public safety officer may be recorded. If a
7 tape recording is made of the interrogation, the public safety officer shall have access
8 to the tape if any further proceedings are contemplated or prior to any further
9 interrogation at a subsequent time. The public safety officer shall be entitled to a
10 transcribed copy of any notes made by a stenographer or to any reports or complaints
11 made by investigators or other persons, except those which are deemed by the
12 investigating agency to be confidential. No notes or reports that are deemed to be
13 confidential may be entered in the officer's personnel file."

14 58. The California Supreme Court found that subdivision (g) of section 3303
15 was included in the Act to further the notions of fundamental fairness for police officers.
16 (*Pasadena Police Officers Assn. v. City of Pasadena* (1990) 51 Cal.3d 564, 573). The
17 Court further found that to harmonize subdivision (g) as a whole, then the provision
18 should be interpreted as requiring that, as is the case with recordings and notes, reports
19 and complaints be produced after first interrogation and that the Legislature must have
20 intended the discovery rights in each instance to be coextensive. (*Pasadena Police*
21 *officers Assn*, supra, at 576).

22 59. Prior to the further interrogation of Plaintiff at subsequent times, the City
23 of Pasadena and/or the Pasadena Police Department had numerous reports, witness
24 interviews, a formal complaint, photographs and other officers statements, but none of
25 these materials were disclosed or provided to Plaintiff prior to his subsequent
26 interrogations.

27 60. Plaintiff was served with a Notice of Proposed Discipline, which
28 demonstrated that further proceedings were being contemplated. Plaintiff was not

1 provided all of the required documents under Government Code §3303(g) nor was he
2 provided all the documents referenced in the Notice of Proposed Discipline.

3 61. There are set rules that establish the administrative appeal process for
4 sworn peace officers with the City of Pasadena. Defendants, and each of them, did not
5 comply with these rules, and thereby violated Government Code §3304.5.

6 62. Defendants, and their agents, employees, and/or representatives are
7 believed to have intentionally and maliciously violated Plaintiff's rights under
8 Government Code §3300, et seq., including, but not limited to Government Code
9 §§3303, 3304 and 3309.5.

10 63. Plaintiff alleges that Defendants undertook the above actions in order to
11 promote its/their/his wish to vex, annoy, or injure another person, or an intent to do a
12 wrongful act. Defendants knew or should have known that by taking the above actions,
13 the Plaintiff and/or his career in law enforcement would be harmed. Defendants are
14 believed to have a history and pattern of violating officers rights under Government
15 Code §3300, et seq.

16 64. As a direct result of Defendants' behavior, Plaintiff has and will continue to
17 incurred harm, damages and attorney's fees in an effort to redress the damages which
18 he/she/it has sustained as a result of said Defendants' outrageous behavior.

19 65. Defendants failed to comply with Government Code §3303, §3304 and/or
20 §3304.5, and; therefore, violated Government Code §3309.5(a). As such, Plaintiffs are
21 entitled to relief under Government Code §3309.5(d)(1), which provides "In any case
22 where the superior court finds that a public safety department has violated any of the
23 provisions of this chapter, the court shall render appropriate injunctive or other
24 extraordinary relief to remedy the violation and to prevent future violations of a like or
25 similar nature, including, but not limited to, the granting of a temporary restraining order,
26 preliminary injunction, or permanent injunction prohibiting the public safety department
27 from taking any punitive action against the public safety officer."

28 66. Ancillary and in addition to the extraordinary relief afforded by

1 Government Code §3309.5(d)(1), and to the extent the superior court finds that
2 Defendants, its employees, agents, or assigns, with respect to acts taken within the
3 scope of employment, maliciously violated any provision of this chapter with the intent
4 to injure Plaintiff, Plaintiff seeks an order that the public safety department shall, for
5 each and every violation, be liable for a civil penalty not to exceed twenty-five thousand
6 dollars (\$25,000) to be awarded to Plaintiff and for reasonable attorney's fees as may
7 be determined by the court. If the court so finds, and there is sufficient evidence to
8 establish actual damages suffered by Plaintiff, Plaintiff seeks an ancillary order that the
9 public safety department shall also be liable for the amount of the actual damages, as
10 proven at trial or hearing on this matter.

11 67. Based on the actions of the Defendants, and each of them, Plaintiff has
12 matters contained in his personnel/IA file and/or files used for personnel purposes and
13 that are discoverable in civil and criminal actions, that are believed to be false and
14 misleading. Plaintiff seeks an order of the court sealing said file(s) and/or ordering that
15 said materials be purged.

16 68. The duty to obey the law in conducting internal affairs investigations and
17 disciplinary appeals is a ministerial duty and is not discretionary. By acting, and failing
18 to act, as set forth above, defendants have violated a ministerial duty. The court can
19 issue an order directing the employer to act.

20 69. Each and every act listed above, individually or jointly, constitutes a
21 violation of Government Code §3300, et seq., and therefore this court is required to
22 render appropriate injunctive or other extraordinary relief to remedy the violation and to
23 prevent future violations of a like or similar nature, including, but not limited to, the
24 granting of a temporary restraining order, a preliminary injunction and a permanent
25 injunction prohibiting the public safety department from taking any punitive action
26 against the public safety officer. (Gov't Code §3309.5).

27 70. Plaintiff has no plain, speedy or adequate remedy under the law. Plaintiff
28 has attempted to exhaust all administrative remedies to redress the violation of his